

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

June 27, 2023

UNITED STATES OF AMERICA,)	
)	
Complainant,)	
)	8 U.S.C. § 1324a Proceeding
)	
v.)	OCAHO Case No. 2020A00002
)	
EL CAMINO, LLC,)	
)	
Respondent.)	
_____)	

Appearances: Graciela Jiron, Esq., for Complainant
David L. Dotson, Esq., for Respondent

ORDER ON COMPLAINANT’S MOTION TO SUBSTITUTE COUNSEL AND MOTION TO
EXTEND SUPPLEMENTAL BRIEFING AND UPDATED FINANCIAL INFORMATION
DEADLINES

I. BACKGROUND

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. Complainant, the Department of Homeland Security, Immigration and Customs Enforcement, file a Complaint against Respondent, El Camino, LLC on October 9, 2019, alleging two counts of violations of the Immigration and Nationality Act (INA) § 274A(a)(1)(B).

On March 15, 2023, the Court issued an order granting in part and denying in part Complainant’s Motion for Summary Decision. *See United States v. El Camino, LLC*, 18 OCAHO no. 1479 (2023).¹ The Court ordered the parties to file a joint submission regarding attempts to resolve

¹ Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages,

the remaining violations and any supplemental briefing related to the violations and updated financial information relating to penalties by May 14, 2023, with replies due thirty days after submission of the briefs and updated financial information. *Id.* at 15.

On May 15, 2023, Complainant filed a Motion to Extend Supplemental Briefing and Updated Financial Information Deadlines. The Court granted that extension on May 17, 2023, directing that supplemental filings were due by June 16, 2023, and responses were due 30 days after submission of the supplemental filings. *See United States v. El Camino, LLC*, 18 OCAHO no. 1479a (2023). In this order, the Court also noted that Attorney Hazel L. Gauthier filed and signed the extension motion on behalf of Complainant, but only Attorney Graciela Jiron entered her appearance in this matter by filing the Complaint. *See id.* at 1 n.1 (citing 28 C.F.R. § 68.33(f)). The Court exercised its discretion to accept this filing but directed Attorney Gauthier to file a notice of appearance or other appropriate motion for clarity of the record. *Id.*

Presently before the Court are Complainant’s June 20, 2023 Motion to Substitute Counsel and Motion to Extend Supplemental Briefing and Updated Financial Information Deadlines.

II. MOTION FOR SUBSTITUTION OF COUNSEL

Complainant requests that the Court substitute Attorney Gauthier as counsel, because in October 2022, she took over a 2-year assignment of all new and existing employment-based cases.² Mot. Substitute 1. Respondent has not opposed the motion.

The OCAHO Rules of Practice and Procedure³ provide that “[w]ithdrawal or substitution of an attorney or representative may be permitted by the Administrative Law Judge upon written motion.” 28 C.F.R. § 68.33(g). Given Complainant’s explanation and the fact that the motion is unopposed, Complainant’s Motion for Substitution of Counsel is GRANTED. The motion shall serve as the Notice of Appearance under 28 C.F.R. § 68.33(f).

seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw database “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

² Complainant states that “Assistant Attorney, Martin Celis, is no longer available to address the Court’s standing order.” Mot. Substitute 1. However, Attorney Graciela Jiron, not Martin Celis, appeared in this matter previously—the Court assumes this is a typographical error.

³ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

III. MOTION FOR EXTENSION OF TIME

Complainant requests, with Respondent’s concurrence, an additional 30-day extension of the Supplemental Briefing deadlines. Mot. Extension 1–2. Complainant writes that the parties “have come to a settlement agreement, which requires more time to [finalize] and prepare a joint notice of settlement and request for dismissal.” *Id.* at 1. Complainant writes that it has conferred with Respondent’s attorney about this request, and that opposing counsel did not oppose extending the supplemental filing deadline. *Id.* at 2 (attaching email correspondence between the parties to this effect).

“OCAHO rules do not provide specific standards for granting extensions, but the standard routinely applied is good cause.” *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021) (citations omitted). Good cause requires “a demonstration of good faith on the part of the party seeking an enlargement of time and some reasonable basis for noncompliance with the time specified in the rule.” *Id.* (citations omitted).

The Court finds that Complainant has demonstrated good cause for an additional extension of the deadline for supplemental briefing and updated financial information, as the parties have reached a settlement agreement. Accordingly, the Court will GRANT the parties an extension of time to file a joint submission regarding attempts to resolve the remaining violations, any supplemental briefing related to the violations, and updated financial information relating to penalties. Responses are due 30 days after submission of the briefs and updated financial information. If the parties reach an agreement, they shall timely seek dismissal of this case pursuant to 8 C.F.R. § 68.14(a)(2). The parties should submit these supplemental filings within 30 days of this order.

SO ORDERED.

Dated and entered on June 27, 2023.

Honorable Jean C. King
Chief Administrative Law Judge